

House File 662 - Introduced

HOUSE FILE _____
BY KAUFMANN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the status of posthumously conceived and born
2 children in the context of legitimacy and liability for
3 support, and inheritance.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2152YH 83
6 pf/nh/24

PAG LIN

1 1 Section 1. Section 252A.3, Code 2009, is amended by adding
1 2 the following new subsection:
1 3 NEW SUBSECTION. 4A. a. A child born of parents who at
1 4 any time prior to the birth of the child entered into a civil
1 5 or religious marriage ceremony shall be deemed the legitimate
1 6 child of both parents, regardless of the validity of such
1 7 marriage, if the marriage was not thereafter dissolved, if the
1 8 child was conceived and born after the death of a parent, and
1 9 if all of the following conditions are met:
1 10 (1) A genetic relationship between the child and the
1 11 deceased parent is established.
1 12 (2) The deceased parent authorized the other parent, in
1 13 writing, to use the deceased parent's genetic material to
1 14 initiate the posthumous conception that resulted in the
1 15 child's birth.
1 16 (3) The child is born within three years of the death of
1 17 the deceased parent.
1 18 b. For the purposes of this subsection, "genetic material"
1 19 means sperm, eggs, or embryos.
1 20 Sec. 2. NEW SECTION. 633.220A POSTHUMOUSLY CONCEIVED AND
1 21 AFTERBORN CHILD.
1 22 1. A child of an intestate conceived and born after the
1 23 intestate's death shall inherit as if the child had been born
1 24 in the lifetime of the intestate and had survived the
1 25 intestate if all of the following conditions are met:
1 26 a. A genetic relationship between the child and the
1 27 intestate is established.
1 28 b. The intestate authorized the intestate's surviving
1 29 spouse, in writing, to use the intestate's genetic material to
1 30 initiate the posthumous conception that resulted in the
1 31 child's birth.
1 32 c. The child is born within three years of the death of
1 33 the intestate.
1 34 2. Any heir of the intestate whose interest in the
1 35 succession of the intestate will be reduced by the birth of a
2 1 child conceived and born as provided in subsection 1 shall
2 2 have one year from the birth of the child within which to
2 3 bring an action to overcome paternity.
2 4 3. For the purposes of this section, "genetic material"
2 5 means sperm, eggs, or embryos.
2 6 Sec. 3. Section 633.267, Code 2009, is amended to read as
2 7 follows:
2 8 633.267 CHILDREN BORN OR ADOPTED AFTER EXECUTION OF WILL.
2 9 1. If a testator fails to provide in the testator's will
2 10 for any of the testator's children born to or adopted by the
2 11 testator after the execution of the testator's last will, such
2 12 child, whether born before or after the testator's death,
2 13 shall receive a share in the estate of the testator equal in
2 14 value to that which the child would have received under
2 15 section 633.211, 633.212, or 633.219, whichever section or
2 16 sections are applicable, if the testator had died intestate,
2 17 unless it appears from the will that such omission was
2 18 intentional.
2 19 2. a. For the purposes of this section, a child born

2 20 after the testator's death includes a child of the testator
2 21 conceived and born after the testator's death, if all of the
2 22 following conditions are met:
2 23 (1) A genetic relationship between the child and the
2 24 testator is established.
2 25 (2) The testator authorized the testator's surviving
2 26 spouse, in writing, to use the testator's genetic material to
2 27 initiate the posthumous conception that resulted in the
2 28 child's birth.
2 29 (3) The child is born within three years of the death of
2 30 the testator.
2 31 b. For the purposes of this subsection, "genetic material"
2 32 means sperm, eggs, or embryos.

2 33 EXPLANATION

2 34 This bill relates to the status of posthumously conceived
2 35 and born children in the context of legitimacy and liability
3 1 for support, and inheritance. The bill provides that if a
3 2 child is born of parents who entered into a civil or religious
3 3 marriage ceremony at any time prior to the birth of the child,
3 4 the child is deemed the legitimate child of both parents,
3 5 regardless of the validity of such marriage, if the marriage
3 6 was not thereafter dissolved, if the child was conceived and
3 7 born after the death of a parent, and if three conditions are
3 8 met: a genetic relationship between the child and the
3 9 deceased parent is established, the deceased parent authorized
3 10 the other parent, in writing, to use the deceased parent's
3 11 genetic material to initiate the posthumous conception that
3 12 resulted in the child's birth, and the child is born within
3 13 three years of the death of the deceased parent.

3 14 In the context of intestate succession, the bill provides
3 15 that a child of an intestate conceived and born after the
3 16 intestate's death shall inherit as if the child had been born
3 17 in the lifetime of the intestate and had survived the
3 18 intestate if three conditions are met: a genetic relationship
3 19 between the child and the intestate is established, the
3 20 intestate authorized the surviving spouse, in writing, to use
3 21 the intestate's genetic material to initiate the posthumous
3 22 conception that resulted in the child's birth, and the child
3 23 is born within three years of the death of the intestate.
3 24 Additionally, the bill provides that any heir of the intestate
3 25 whose interest in the succession of the intestate will be
3 26 reduced by the birth of a child conceived and born
3 27 posthumously shall have one year from the birth of the child
3 28 within which to bring an action to overcome paternity.

3 29 In the context of testate succession, the bill provides
3 30 that a child born after the testator's death includes a child
3 31 of the testator conceived and born after the testator's death,
3 32 if all of three conditions are met: a genetic relationship
3 33 between the child and the testator is established, the
3 34 testator authorized the surviving spouse, in writing, to use
3 35 the testator's genetic material to initiate the posthumous
4 1 conception that resulted in the child's birth, and the child
4 2 is born within three years of the death of the testator. Such
4 3 afterborn children would receive a share in the estate of the
4 4 testator equal in value to that which the child would have
4 5 received under the applicable Code sections relating to
4 6 intestate succession, unless it appears from the will that
4 7 omission from the will relative to the child was intentional.

4 8 LSB 2152YH 83

4 9 pf/nh/24